



**MINUTES
CITY COUNCIL MEETING
April 19, 2022**

CALL TO ORDER

The meeting was called to order at 6:30 pm.

Present: Mayor: Charlie Miner; Council: Jahn Dyvik, Mike Feldmann, and Gina Joyce

Staff Present: City Administrator: Scott Weske; City Clerk Moeller; City Attorney Thames;
Public Works Director Diercks

Absent: Council: Deirdre Kvale (with prior notice)

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENTS – LONG LAKE NEWS, MEETING REVIEW AND UPDATES

Mayor Miner expressed the Council's condolences to Council member Kvale and her family on the passing of her mother. He noted that there was an Economic Development Authority meeting held just prior to this meeting where they discussed the City-owned property at 1905 W. Wayzata Boulevard, and ways to potentially market this property in the future. He encouraged residents to be part of ListServe to they can stay informed about all the events that are coming up such as: April 23, 2022 will be Earth Day and Spring Clean-Up from 8:00 a.m. to 2:00 p.m. at Orono Public Works; the Long Lake Waters Association will also be holding an Earth Day event on April 23, 2022 from 2:00 to 4:00 p.m. for a Walk for Water, with the 'rain date' being the following day; May 1, 2022 there will be an all you can eat pancake and French toast breakfast put on by the Long Lake Fire Department from 8:00 a.m. to 1:00 p.m..

APPROVE AGENDA

A motion was made by Feldmann, seconded by Dyvik, to approve the agenda as presented. Ayes: all.

CONSENT AGENDA

The Consent Agenda consisted of:

- A. Approve Minutes of April 5, 2022 City Council Work Session Meeting
- B. Approve Minutes of April 5, 2022 City Council Meeting
- C. Receive Unofficial Draft Minutes of March 29, 2022 Economic Development Authority Meeting
- D. Approve Vendor Claims and Payroll
- E. Adopt Resolution No. 2022-16 Approving Issuance of Special Event Permit #S2022-05 for the Temporary Outdoor Patio at the Red Rooster Bar and Restaurant, Effective May 1 through October 1, 2022
- F. Adopt Resolution No. 2022-17 Approving Issuance of Special Event permit \$S2022-03 for the Temporary Outdoor Patio at Carbone's Pizzeria Long Lake, Effective May 1 through September 30, 2022
- G. Adopt Resolution No. 2022-18 Approving Issuance of Special Event Permit #S2022-04 for the Gear West Twilight 5K and Kids Adventure 1K to be held June 24, 2022

- H. Authorize Pay Request #2 to Hydro-Klean, LLC in the Amount of \$81,603.10 for the District 4 Sanitary Sewer Rehabilitation Project

*A motion was made by Joyce, seconded by Dyvik, to approve the Consent Agenda as presented.
Ayes: all.*

OPEN CORRESPONDENCE

No one was in attendance to address the City Council during Open Correspondence.

BUSINESS ITEMS

Update and Discussion Regarding Hennepin County Sheriff's Water Patrol Permitting Authority and Activities Using Long Lake

City Clerk Moeller welcomed Lieutenant Bret Cline of Hennepin County Sheriff's Office (HCSO) Water Patrol and explained why she had invited him to attend tonight's meeting. She recalled that as long as the Long Lake Rowing Crew (LLRC) has been operating on Long Lake, the City had always been given direction from administrative staff at HCSO Water Patrol that this type of organized event that operates with programmed training and practices would require a permit. After the Council authorized HCSO Water Patrol to issue the LLRC's the usual annual permit this year, staff requested that HCSO Water Patrol provide staff with a copy of the permit once it was issued; however, the City never received a permit. She had sent an email following up and received a response stating that HCSO Water Patrol had reviewed the statute under which they issue their special event permits for lake and water usage and determined that the LLRC's scope of operations did not require a permit. Moeller indicated that City Attorney Thames has looked at the statute and has agreed with that assessment. Staff is appreciative of the clarity that this brings, and Moeller noted that staff did not even know there was a statute governing HCSO Water Patrol's permitting process until this correspondence had been received. She reflected that if the City would have known when the LLRC had first approached the City that there would be no additional permitting or oversight over their annual operations, it may have affected the Council's decision making at the time, but hindsight is 20/20 and the City can only move forward under the letter of the law. She added that this was obviously unexpected news for the City and noted that Lieutenant Cline has been very helpful. To assist staff in understanding the situation, he had shared the example of the Wayzata Yacht Club who conducts practices and trainings on Lake Minnetonka without permits being required, but a permit is required of their organization when they hold a regatta. She read aloud a pertinent excerpt from the statute, which states that 'A person may not hold or sponsor and scheduled public race, regatta, tournament, or other competition or exhibition, or a trial race on water or ice, whether or not involving watercraft, without first having obtained a written permit from the Sheriff of the County where the event is to originate'. She stated that both she and City Attorney Thames found the language to be quite clear and reiterated that she wished the City had this clarity a long time ago. She explained that with no HCSO Water Patrol permitting being required for LLRC activities, staff wanted to be sure that Council is aware that the LLRC's restrictions on hours of operation for any activities they conduct out of their physical location at Birch's remain in effect because that is governed by the Conditional Use Permit (CUP) allowing them to operate out of that location. She advised the Council that with no other permitting oversight, there is nothing that would prohibit the LLRC from launching additional shells and coaches' boats from public launches to run practices outside of the CUP hours. She reported that as soon as staff had received the email from HCSO Water Patrol regarding this new understanding, staff prepared and ordered new signage for Nelson Lakeside Park that says, 'In Case of Any Incident or Emergency, Dial 911 to Reach Police, Water Patrol, or Rescue', reminds watercraft users to review the MnDNR's annual Minnesota Boating Guide, and includes language stating 'Questions or Concerns Related to Usage or Regulations Specific to Activities on Long Lake, Please Email Hennepin County Sheriff's Water Patrol Office at' with their

phone number 'or call 911 to request an officer to contact you'. This information has also been posted to the City's website and will be sent out via the City ListServ as boating season approaches. She mentioned that Council member Feldmann had contacted staff with some questions that came to his mind immediately after he found out about this new permit situation. One of the questions was whether a private residential homeowner on Long Lake could essentially operate a mini-rowing crew out of their property. She indicated that Planning Consultant Rybak had provided her with some code sections to answer that question, but summarized that her interpretation would be that this would not be permissible by Long Lake lakeshore owners and read aloud portions of code that support that assessment. Rybak further advised that 'if something is not explicitly permitted in the zoning ordinance, it is prohibited, and utilizing a residential property for rowing crew operations and to get people on the lake that do not reside on the property is not a permitted accessory use and therefore is not allowed.' Moeller suggested that the Council have a discussion about their concerns and about what they have been seeing on the lake while Lieutenant Cline was in attendance, and welcomed Lieutenant Cline to the meeting.

Lieutenant Cline stated that he was promoted to Lieutenant last October, so he is newer to the LLRC situation. He shared an overview of his background and experience prior to his current position, noting that he had served with HCSO Water Patrol, as a K-9 handler, as a volunteer previously with HCSO Water Patrol, and as a licensed peace officer in Sioux Falls for nine years. He commented that there has been some clerical support staff turnover at HCSO Water Patrol, and once he was promoted to Lieutenant, he has spent time reading the permits and having discussions with the LLRC who had initiated this permit process review. He indicated that he would be happy to answer any Council questions that he can. He reported that he had pulled records back to 2014 and noted that their office has only had 102 calls for service on Long Lake as a HCSO Water Patrol unit since that time. In 2020-2021 they had had 14 calls over the past two summers. He reviewed the reports and there was only one LLRC related concern dated June 26, 2020 that was recording a complaint from the day before. He discussed HCSO Water Patrol staffing numbers and mentioned that there are two Lake Minnetonka Conservation District deputies that strictly work Lake Minnetonka. HCSO Water Patrol handles every water related emergency call in the County and tries to patrol the 104 named lakes and three rivers in the County, so they stay very busy. As part of his research he had also pulled logged hours for 2020 and 2021, and Long Lake was at 16.5 hours for those years. Their office had patrolled 41 other lakes in that time period for a total of 448 hours, not including Lake Minnetonka. He emphasized that if anybody sees any problems on Long Lake, he wants to make it clear that they should call 911 and not their office number. Their office phone and their email address is not manned 24 hours/day. He indicated that calls that come in after the fact can make it very hard to determine what actually happened and reiterated that if something is not right or people see something that they want handled, they need to call 911 at the time, not later.

Council member Dyvik thanked Lieutenant Cline for taking the time to come to the Council's meeting and have this conversation, and added that he would like to have an annual update from HCSO Water Patrol if possible. He commented that his biggest concern was also for public safety and many people, including him, think things are getting a little crowded on Long Lake. He voiced his concerns about there being an accident as well as concern about the LLRC's increased presence limiting other activities on the lake. He stated that he thinks it is very important that people report incidents they experience and recognized there has been some confusion on what to do and who to contact. He personally has been told about situations that were not reported to HCSO Water Patrol and believes the same thing has happened with City staff. He expressed his appreciation for the work that HCSO Water Patrol is doing on the lakes in the County.

Council member Feldmann added that he thinks having the new signage and advisories out will be significant because most people have been raised with the mentality that you do not call 911 unless things are dire and someone is bleeding. Spreading that message out there clearly that individuals are encouraged to call 911 even if it is not an emergency is good because, as Council member Dyvik stated, he has also had many residents tell him about incidents that were never reported to HCSO Water Patrol.

Council member Dyvik stated that he would like to see the LLRC come to the Council on annual basis to let the City know what their plans are and to keep the lines of communication open. He expressed concern that the City may not hear from them anymore because they do not need the HCSO Water Patrol permit.

Council member Joyce pointed out that the City still oversees the CUP.

Moeller responded that the City could ask them to come and give the City an update on what they are up to for the season, similarly to how the Long Lake Waters Association periodically appears before Council with updates.

Council member Joyce indicated that she would agree that safety is important. Minnesotans love the lakes, and they are there for people to use. Her concern is related to the nature of a rowing crew as they are operating several boats deep, all in line, all in one spot, down the center of the lake. She inquired what measures there are to maintain safety if that number of organized rowers is now too much in the interest of public safety, because she feels that their manner of activity is different than just a public user coming out to the lake. She asked what options may be available from an enforcement perspective to look at a large group impacting public use.

Lieutenant Cline stated that situations would be considered on a case-by-case basis and clarified that he cannot limit public access to the lake and say that they can only have a certain number of boats, nor could he tell a homeowner that they can only have one jet ski. He gave the example of the activity and interactions on Lake Minnetonka with motorized boats and the sailboats. He stated that there is a level of awareness present that the motorized craft have to yield and give way to the non-motorized craft, yet there are very minimal accidents on Lake Minnetonka and it is heavily populated with all types of users. He noted that he has had a meeting with his staff and they plan to put more emphasis on Long Lake this summer in the hopes that the more their patrols are seen, the more they may be able to deter some of the issues.

Moeller mentioned that she has gotten reports over the last few years of a lot of tension out there, including fights nearly breaking out at the launch because people had lost their patience entirely over the general boating activity level.

Council member Dyvik observed that he does not think that there is any particular animosity towards the LLRC, but there are overall concerns about safety on the lake.

Lieutenant Cline assured the Council that his phone is always on and his door is always open if they have any questions, and encouraged them to reach out so it can be worked through together.

OTHER BUSINESS

Mayor's Updates - Mayor Miner reported that he had attended a Wayzata Crime Prevention Coalition meeting last week. There is a softball tournament with between Wayzata Police and Fire

Departments scheduled for June. Additionally, he had attended a meeting with City staff recently and work continues on an updated master water and sewer agreement with Orono.

Carp Management and Long Lake Waters Association - Council member Joyce asked if there was an update on the Long Lake Waters Association's (LLWA) carp removal project plans. Moeller responded that she does not have any update on activity, but had heard that they have had success with some fundraising efforts and believes that they will be able to complete both planned project phases. She added that she had posted a quorum notice for the LLWA's "Walk for Water" event if the Council would like to attend. Council member Dyvik expressed his appreciation to the LLWA and their Board for all the work they are doing.

ADJOURN

Hearing no objection, Mayor Miner adjourned the meeting by general consent at 7:16 pm.

Respectfully submitted,

Scott Weske
City Administrator